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January 31, 2007

VIA FACSIMILE and E-Mail

Hon. Jack B. Weinstein
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *In re: Zyprexa Products Liability Litigation*
Case No. 04-MDL 1596

Dear Judge Weinstein,

I am writing in response to your January 29, 2007, Invitation and Order concerning New York Times reporter Alex Berenson, to respectfully request that you reconsider the time set for taking his testimony.

At present, you have ordered that, should Mr. Berenson accept your invitation, the time for him to appear for examination and cross-examination is Wednesday, February 7, at 10:00 a.m. If this proceeding does take place, I would like the opportunity to participate telephonically. This poses three problems. First, as scheduled, this hearing would be conducted at 6:00 a.m. Alaska time, and 7:00 a.m. Pacific time. Second, this proceeding is set on for the last day we have been given for writing and filing our brief in response to the brief Lilly is expected to file shortly.

Finally, since we do not know how long the examination might last, I have a likely conflict that morning because I teach a Communication Law class at 8:30 a.m., and would, unless ordered otherwise, be unavailable from noon until about 2:30 Eastern. (I had not yet formally advised the court of my teaching conflict, affecting hearings set between noon and 2:30 EST on Mondays and Wednesdays for the next couple months, because I did not anticipate other, interim proceedings being set on so quickly.)

*Notify:
the court
requests that
rescheduling is
not possible at
this time. So ordered
JW 2/1/07*


JK

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I recognize the inherent difficulties in scheduling matters affecting so many counsel, and would appreciate what you can do to re-schedule the Berenson proceeding for the following day, or to otherwise accommodate these concerns.

Thank you.

Sincerely,



D. John McKay
Attorney for James B. Gottstein

cc: Nina M. Gussack, Esq. (via e-mail)
Sean P. Fahey, Esq. (via e-mail)
Evan Janush, Esq. (via e-mail)
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